

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

LOCAL 1 BRICKLAYERS' OF	)	
MISSOURI WELFARE TRUST, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 4:04CV1079 CDP
	)	
DAL-MAR TUCKPOINTING, INC.,	)	
et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

On March 4, 2009, I ordered plaintiffs to file a proposed order granting the relief sought in their motion for creditor's bill in equity and to pierce the corporate veil. Instead of complying with my Order, plaintiffs emailed a proposed order to the Clerk's Office. I will order the Clerk of the Court to file plaintiffs' proposed Order, but any future proposed orders must be filed or they will not be accepted by the Court.


After reviewing plaintiffs' motion, supporting exhibits, and proposed Order, I cannot grant plaintiffs the relief they seek at this time. Plaintiffs have provided evidence that: Dal-Mar Caulking & Tuckpointing, LLC employs the same bricklayer as defendant Dal-Mar Tuckpointing, Inc.; Dal-Mar Caulking & Tuckpointing, LLC shares the same address and registered agent as defendant Dal-Mar Tuckpointing, Inc.; and, Dal-Mar Caulking & Tuckpointing, LLC continued to submit reports and contributions under collective bargaining agreements under which defendant Dal-Mar

Tuckpointing, Inc. was bound. However, this evidence, standing alone, is insufficient to demonstrate that Dal-Mar Caulking & Tuckpointing, LLC is the alter ego of defendant Dal-Mar Tuckpointing, Inc. such that plaintiffs should be permitted to pierce the corporate veil and hold Dal-Mar Caulking & Tuckpointing, LLC liable for the obligations of defendant Dal-Mar Tuckpointing, Inc. under ERISA and Missouri law. Plaintiffs may provide the necessary evidence by affidavit, but testimony regarding each of the elements of the alter ego or corporate veil theories -- including, for example, evidence about wrongful conduct or improper purpose -- is necessary before I can grant plaintiffs the relief they seek. Plaintiffs should file a motion if they elect to present their testimony through live witnesses in lieu of an affidavit.

Accordingly,

**IT IS HEREBY ORDERED** that the Clerk of the Court shall file the proposed order emailed to the Clerk's Office by plaintiffs.

**IT IS HEREBY ORDERED** that plaintiffs shall supplement their motion for a creditor's bill in equity and to pierce the corporate veil [#54] as set forth above or request an evidentiary hearing on their motion by March 16, 2009 or the motion will be denied without prejudice.

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 12th day of March, 2009.